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STATE OF WASHINGTON
GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DEPT

In the Matter of the Suspension of the Licenses
to Conduct Gambling Activities of:

Drift On Inn Road House Casino
Shoreline, Washington,

Licensee.

NO. No. CR 2011-00093

SETTLEMENT ORDER

This Settlement Order is entered into between the Washington State Gambling Commission and Drift On Inn Road House Casino. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Dave Malone, Attorney, of Miller Malone & Tellefson, represents the licensee.

I.

The Washington State Gambling Commission issued Drift On Inn Road House Casino (Drift on Inn, Drift), organization number 00-22172, located at 16708 Aurora Ave. N., Shoreline, Washington, the following licenses:

Number 67-00306, authorizing Class "15" House-Banked/Card Room activity.

Number 05-20938, authorizing Class "J" Punchboard/Pull-tab activity.

The licenses, which expire on November 30, 2011, were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on September 30, 2011, seeking the suspension of Drift On Inn's licenses to conduct gambling activities. On October 4, 2011, Commission staff received the licensee's request for a hearing.

The following facts and violations were alleged in the Notices of Administrative Charges:

From at least December 2010 to January 14, 2011, the licensee was unable to reconcile their Player Supported Jackpot¹ (PSJ) account. The licensee failed to disclose all loans over \$10,000

¹ **Player Supported Jackpot (PSJ)**

The casino offered a dealt poker game. In conjunction with the poker game, they offer a Player Supported Jackpot (PSJ). The PSJ is a separate contest of chance directly related to the play and outcome of the poker game. It is not a card game itself. The funding for the PSJ comes from the player's wagers. When the aggregate amount the players have wagered (the poker pot) reaches \$20, the pot then qualifies to have \$1 removed from the player's pot and dropped into the PSJ lock box that is secured to the poker table. The PSJ funds collected in the drop box are counted

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to Commission staff. The licensee also did not follow the operating hours listed in their internal controls. In addition, the licensee did not keep their payroll documents up to date and issued large employee cash advances without accounting for or tracking of funds and amounts. At least two Notice of Errors (NOEs) were not reported to Commission staff, as required. The actual cash in the licensee's vault did not match the amount on the Vault Cash Log or the Detail of Bank Deposit and Reconciliation. Also, the licensee's accounting documents were mislabeled and incomplete.

Grounds exist to revoke Drift on Inn Road House Casino's licenses based on RCW 9.46.075 (1), (7) and (8), and WAC 230-03-085 (1) and (8).

VIOLATIONS:

1) RCW 9.46.075(1), (7), and (8) provide the Commission may revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the Commission, or when a violation of any provision of chapter 9.46 RCW, or any Commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission;

(8) Fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

2) WAC 230-03-085(1) and (8) provides that the Commission may revoke any license or permit when the licensee, or anyone holding a substantial interest in the licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for revoking licenses or permits under RCW 9.46.075; or

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

daily and deposited into a separate bank account. Any interest earned by the PSJ account is also returned to the players as prize payment.

3) WAC 230-06-083 provides that Card game licensees, except Class B or Class D must:
(The following subsections apply.)

(1) Submit an add/transfer application and the required fees before allowing a licensed card room employee to begin working.

(2) Notify us in writing when a licensed card room employee no longer works for them. We must receive the notice at our Lacey office within ten days of the card room employee terminating employment.

4) WAC 230-06-080 requires licensees to notify Commission staff in writing if any information filed with the application changes in any way within thirty days of the change.

Licensees must submit to us any new or updated documents and information, including the following:

- (a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and
- (b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and
- (c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and
- (d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

5) WAC 230-15-025(1), (2), (3), (4), and (5) Hours of Play
(The following subsections apply.)

(1) Licensees must not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. unless we approve different hours.

(2) Licensees may request, in writing, different hours of operation. Once the request is received, we will consult with the local law enforcement agency having jurisdiction over the licensee's business and with other state agencies involved in regulation of the business. We may allow licensees to adjust closing hours, but licensees must:

- (a) Open the food and/or drink business being stimulated to the public for business any time licensees are conducting card games; and
- (b) Have a licensed card room employee on duty and in the licensed card game area at all times during the hours of operation of a Class E, Class F, or house-banked card games; and
- (c) Observe a four-hour period of closure at the end of at least two business days a week before beginning the next period of operation; and
- (d) Comply with any other terms and conditions we require.

- (3) We may deny the request for extended hours or revoke hours already approved if:
 - (a) The local law enforcement agency or a state agency objects; or
 - (b) We determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection of this section.
- (4) Licensees must submit all objections to revocations of operating hours in writing.
- (5) If requested, we allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended card game hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

6) WAC 230-15-050 Minimum cash on hand requirements

- (1) Card game agent licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.
- (2) Within three hours of opening for the business day, at a time included in the internal controls, house-banked card game licensees must have at least the following minimum amount of cash on premises in their cage, safe, and vault combined:
 - (a) One thousand dollars for each house-banked table on the gambling floor; plus
 - (b) The amount of the largest single prize available excluding jackpot prizes when WAC rules require a deposit into a separate bank account (for example, player-supported jackpots and progressive jackpots). For example: If a house-banked card room has fifteen house-banked tables and a largest single prize of twenty-three thousand dollars, before opening, the cage must have at least thirty-eight thousand dollars on hand: $15 \text{ tables} \times \$1,000 = \$15,000 + \text{largest single prize of } \$23,000 = \$38,000$.
- (3) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.
- (4) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud. Meeting the minimum cage cash amount does not relieve the licensee from the requirement to have sufficient funds available to redeem all chips and pay out all prizes.

7) WAC 230-15-190 Preparing card game records

- (1) Card game licensees must prepare all records in the format we require. Licensees must record the data in ink, on storage the media, or in other permanent form.
- (2) Licensees must print, or back up in a permanent form, all the data kept in computer data bases monthly.

8) WAC 230-15-365 Getting Approval for player-supported jackpots

(1) Class F or house-banked licensees must not operate a player-supported jackpot (PSJ) before we approve it in writing.

(2) To get a PSJ approved, licensees must make a written request, including, at least:

- (a) A detailed description of the card game associated with the PSJ; and
- (b) All rules of play; and
- (c) All internal control procedures associated with the PSJ and accounting for funds and prizes; and
- (d) The name of the prize fund custodian.

(3) Licensees must get Commission written approval before making any changes to the PSJ.

9) WAC 230-15-400 requires that Class F or house-banked licensees must:

(1) Maintain a separate bank account in a bank, mutual savings bank, or credit union in Washington state for holding player-supported jackpot (PSJ) funds; and

(2) Deposit only funds from PSJs into the account; and

(3) Not make payouts from the PSJ funds until licensees have first deposited the funds in the PSJ account. However, licensees may pay out prizes won during the gambling day and deduct administrative expenses before licensees deposit the funds; and

(4) Transfer or deposit the PSJ funds into the PSJ account or with an armored car service no later than the second banking day after the close of business; and

(5) Identify all deposits or transfers of PSJ funds by the type of PSJ fund and date of collection. Licensees must keep the validated deposit receipts or transfer information as a part of their required daily records or have on-line access to their player-supported jackpot bank accounts; and

(6) Transfer the amount from the PSJ account to the cage or general account before the end of the month if PSJ prizes are paid from the cage or general account. The licensee must keep the transfer information as part of the written records; and

(7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

10) WAC 230-15-425 Internal controls

(1) House-banked card game licensees must:

- (a) Adopt internal controls in the format we require; and
- (b) Ensure that all games are closely controlled and operated in accordance with gambling laws, our rules, and the house-banked card game licensee's internal controls (ICs); and
- (c) Follow all ICs at all times; and

- (d) Have all ICs available to us at all times at the licensed business premises; and
- (e) Have the ICs available to card room employees for their individual functions; and
- (f) Ensure that card room employees are knowledgeable in all accounting and internal control procedures for their individual functions and ensure that employees follow the ICs.

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

11) WAC 230-15-495 provides that licensees must clearly mark the outside of the chip tray with the gambling table number which it matches. When opening gambling tables, house-banked card game licensees must follow these steps:

(1) A floor supervisor must unlock the table inventory container (chip tray) and take out the table inventory slip (opener); and

(2) The floor supervisor and the dealer assigned to the gambling table must:

- (a) Count the contents of the chip tray; and
- (b) Verify the count against the opener; and

(3) The dealer and the floor supervisor must then sign the opener, confirming the information on the opener is correct; and

(4) The dealer must immediately deposit the opener in the drop box attached to the gambling table; and

(5) If there is any discrepancy between the amount of gambling chips and coins counted and the amount of the chips and coins recorded on the opener:

- (a) The floor supervisor must report immediately to the shift manager, if on duty or when the manager arrives; and
- (b) The floor supervisor on duty must complete and sign a notification of error slip; and
- (c) The dealer and security must verify and sign the notification of error slip; and
- (d) Security must transport the duplicate of the notification of error slip to the accounting department or the cashier's cage; and
- (e) The dealer must drop the original notification of error slip in the drop box attached to the gambling table; and
- (f) The accounting department must keep a copy of the notification of error slip in a log in the format we require; and
- (g) Licensees must notify us within twenty-four hours of errors of two hundred dollars or more, or if there is a pattern of shortages.

12) WAC 230-15-550 provides that house-banked card game licensees must closely control and keep records documenting all receipts and disbursements of cash, cash equivalents, chips, and coin related to the operation of card games.

13) WAC 230-15-730(2), (3), and (4) provide that licensees must keep the following accounting records:

(1) House-banked card game licensees must keep and maintain a complete set of accounting records which we have approved before licensure. These records must include all receipts and disbursements of the licensee, including, at least, those related to gambling activities.

Revenue, costs, and expenses.

(2) Licensees must keep legible, accurate, and complete records of all transactions relating to the revenues, costs, and expenses of the gambling operation. Licensees must keep these records in a format that ensures consistency, comparability, and effective disclosure of financial information.

Accounting system.

(3) Licensees must keep an accounting system on a double entry method of accounting with transactions recorded on an accrual basis and in conformity with United States' Generally Accepted Accounting Principles (GAAP).

Recordkeeping.

- (4) Licensees must keep detailed, supporting, and subsidiary records including, at least:
- (a) Records of all players' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible"; and
 - (b) Records of investments in property, including, at least, equipment used directly in connection with the gambling operation; and
 - (c) Records of amounts payable by the gambling operation; and
 - (d) Records which identify the purchase, receipt, and destruction of all cards and gambling chips used in wagering; and
 - (e) Records of services provided for the operation of gambling activities, for example, service provided by gambling service suppliers; and
 - (f) Master game reports that reflect drop and win amounts for each table, for each game agent. These records must cover at least each period for which the drop boxes are removed, or at the minimum, the period of each gambling day.

14) WAC 230-15-735 Keeping employee licensing records

Licensees must keep a records system on the business premises that ensures all applicable employees have met licensing requirements. The records must include photocopies of all current employees' licenses.

15) WAC 230-15-745 provides house-banked card game licensees must keep signature cards in the format we require for all licensed card room employees.

(1) The card must be prepared in the presence of a member of the accounting department, who must review a picture identification card and verify the signer's identity.

(2) Licensees must keep completed cards in a signature card file, sorted by department and listed alphabetically by game. Licensees must review and adjust the signature records as needed to reflect changes of personnel.

- (3) Licensees must securely store signature cards in the accounting department.
 - (4) The cashier's cage must keep a copy of each signature card and cage personnel must use it to verify signatures.
 - (5) Licensees must retain the signature records for a period of at least one year after employment ends.
- The licensee had four current employees without signature cards on file in the cashier's cage, in violation of WAC 230-15-750.

16) WAC 230-15-750 provides that:

- (1) House-banked card game licensees must document each transfer of cash, coins, or chips and verify the transfer with the signature(s) of individual(s) responsible for the records.
- (2) By signing documents, records, and forms, signers are indicating that they:
 - (a) Have prepared them according to the requirements of the accounting system and internal controls; and/or
 - (b) Attest to the accuracy of the information recorded for which they are responsible.
- (3) Signers must sign immediately next to, or above, the clearly printed or preprinted title on all forms, records, and documents.
- (4) Signatures must, at least, be the signer's first initial and last name, for example, "B. Smith," and the signer's employee number.

III.

The licensee, Drift On Inn Road House Casino, acknowledges that it received and read the Notice of Administrative Charges issued in this case, and understands the facts and violations alleged in it. While not admitting to the facts and violations specified above in section II, the licensee agrees that if the Gambling Commission established the alleged facts in the case at issue, there would be sufficient evidence of the violations as stated in the administrative charges.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order. The licensee further agrees to the following sanctions:

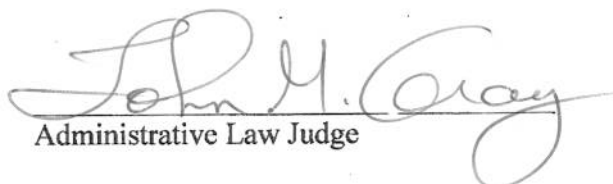
- 1) The licensee agrees to the surrender all gambling licenses to Commission staff.
- 2) **The signed Settlement Order and surrendered license's must be received by Commission staff on or before November 30, 2011,** and mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division Lacey, WA 98503

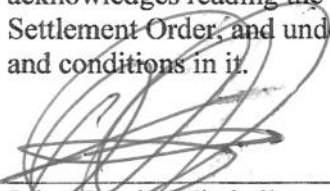
DATED this 14th day of December, 2011.

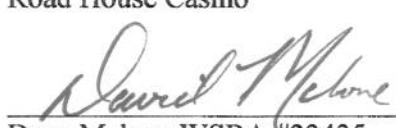

Administrative Law Judge


APPROVED FOR ENTRY:

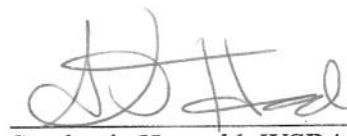
APPROVED AS TO FORM:

By the signature below, the licensee
acknowledges reading the
Settlement Order, and understands the terms
and conditions in it.


12-2-11
John "Mark" Mitchell (Date)
Owner and operator of: Drift On Inn
Road House Casino


11/30/2011
Dave Malone WSBA #23435 (Date)
Miller Malone & Tellefson
Representing Drift On Inn Road House Casino


Melinda Froud, WSBA #26792
Lead Staff Attorney,
Washington State Gambling Commission


12/8/11
Stephanie Happold, WSBA #38112
Assistant Attorney General,
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